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DEPARTMENT OF COMMERCE

International Trade Administration

A-570-831

Fresh Garlic from the People's Republic of China: Preliminary Results, Preliminary Intent to Rescind, and Partial Rescission of the 20th Antidumping Duty Administrative Review; 2013-2014

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (Department) is conducting the 20th administrative review of the antidumping duty order on fresh garlic from the People's Republic of China (PRC) covering the period of review (POR) November 1, 2013, through October 31, 2014.¹ This review covers 161 manufacturers/exporters of subject merchandise.² We preliminarily find that mandatory respondent Shenzhen Xinboda Industrial Co., Ltd. (Xinboda) made sales of subject merchandise at less than normal value (NV). In addition, the Department preliminarily finds that the other mandatory respondents, Hebei Golden Bird Trading Co., Ltd. (Golden Bird) and Qingdao Tiantaixing Foods Co., Ltd. (QTF), are part of the PRC-wide entity. We invite interested parties to comment on these preliminary results.

DATES: Effective date: (INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*.)

FOR FURTHER INFORMATION CONTACT: Jacqueline Arrowsmith or Alexander Cipolla, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-5255 or (202) 482-4956.

¹ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 79 FR 76956 (December 23, 2014) (*Initiation Notice*).

² *Id.* at 79 FR 76956, 76958- 76961.

Scope of the Order

The merchandise covered by the order includes all grades of garlic, whole or separated into constituent cloves. Fresh garlic that are subject to the order are currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) 0703.20.0010, 0703.20.0020, and 0703.20.0090. Although the HTSUS numbers are provided for convenience and customs purposes, the written product description remains dispositive. For a full description of the scope of this order, please see “III. Scope of the Order” in the accompanying Preliminary Decision Memorandum.³

Partial Rescission of Administrative Review and Preliminary Intent to Rescind the Review

On December 23, 2014, the Department initiated a review of 161 companies in this proceeding.⁴ Between January 16 and March 17, 2015, withdrawal requests were timely filed for 81 companies.⁵ The Department is, therefore, partially rescinding this review with respect to the companies listed in Appendix I, in accordance with 19 CFR 351.213(d)(1). In addition, we preliminarily intend to rescind this administrative review with respect to Jinxiang Kaihua Imp & Exp Co. Ltd. (Kaihua), because we found its POR sales to not be *bona fide* in the concurrent new shipper review.⁶

Methodology

³ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Decision Memorandum for the Preliminary Results of the 2013-2014 Antidumping Duty Administrative Review: Fresh Garlic from the People’s Republic of China” (dated concurrently with this notice) (Preliminary Decision Memorandum).

⁴ *Id.*

⁵ See letter from Petitioners, “20th Administrative Review of the Antidumping Duty Order on Fresh Garlic from the People’s Republic of China- Petitioners’ Withdrawal of Certain Requests for Administrative Review,” at 2-4 (January 16, 2015); letter from El Bosque Garlic Farm, “Fresh Garlic from the People’s Republic of China- Withdrawal of Review Request in 20th Administrative Review filed on behalf of El Bosque Garlic Farm,” at 1 (March 17, 2015); and letter from Zhengzhou Harmoni Spice Co., Ltd., “Harmoni Withdrawal of Review Request: Twentieth Administrative Review of the Antidumping Duty Order on Fresh Garlic from the People’s Republic of China (A-570-831),” at 1 (January 16, 2015).

⁶ See *Fresh Garlic From the People’s Republic of China: Final Results and Partial Rescission of the 18th Antidumping Duty Administrative Review; 2011-2012*, 79 FR 36721 (June 30, 2014) and accompanying Issues and Decision Memorandum at Comment 18.

The Department is conducting this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act). Export prices were calculated in accordance with section 772(a) of the Act. Because the PRC is a nonmarket economy within the meaning of section 771(18) of the Act, NV has been calculated in accordance with section 773(c). We relied, in part, on the facts available, with adverse inferences, for our preliminary determination, in accordance with section 776 of the Act.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum, which is hereby adopted by this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System ("ACCESS"). ACCESS is available to registered users at <http://access.trade.gov>, and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the internet at <http://enforcement.trade.gov/frn/>. The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

PRC-Wide Entity

The Department's change in policy regarding conditional review of the PRC-wide entity applies to this administrative review.⁷ Under this policy, the PRC-wide entity will not be under review unless a party specifically requests, or the Department self-initiates, a review of the entity. Because no party requested a review of the PRC-wide entity in this review, the entity is not under review and the entity's rate (*i.e.*, \$4.71/kg) is not subject to change. Aside from the no

⁷ *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963 (November 4, 2013).

shipments companies discussed below, and the companies for which the review is being rescinded, the Department considers all other companies for which a review was requested and which did not preliminarily qualify for a separate rate to be part of the PRC-wide entity. For additional information, *see* the Preliminary Decision Memorandum.

Preliminary Determination of Separate Rates for Non-Selected Companies

In accordance with section 777A(c)(2)(B) of the Act, the Department employed a limited examination methodology, as it determined that it would not be practicable to examine individually all companies for which a review request was made. There were 12 exporters of subject merchandise from the PRC that have demonstrated their eligibility for a separate rate but were not selected for individual examination in this review. These 12 exporters are listed in Appendix II.

Neither the Act nor the Department's regulations address the establishment of the rate applied to individual companies not selected for examination where the Department limited its examination in an administrative review pursuant to section 777A(c)(2) of the Act. The Department's practice in cases involving limited selection based on exporters accounting for the largest volumes of trade has been to look to section 735(c)(5) of the Act for guidance, which provides instructions for calculating the all-others rate in an investigation. Section 735(c)(5)(A) of the Act instructs the Department to use rates established for individually investigated producers and exporters, excluding any rates that are zero, *de minimis*, or based entirely on facts available in investigations. In this review, we calculated a preliminary weighted-average dumping margin for Xinboda, while Golden Bird and QTF were considered part of the PRC-wide entity based on the application of total facts available with adverse inferences. Therefore

for the preliminary results, the Department has preliminarily determined to assign the non-selected separate rate companies Xinboda's rate.

Preliminary Determination of No Shipments

The companies listed in Appendix III timely filed “no shipment” certifications stating that they had no entries of subject merchandise during the POR. Consistent with its practice, the Department asked CBP to conduct a query of potential shipments made by these companies. CBP did not provide evidence that contradicted the parties’ no shipment claims. Based on the certifications by these companies and our analysis of CBP information, we preliminarily determine that the companies listed in Appendix III did not have any reviewable transactions during the POR. In addition, the Department finds that consistent with its refinement to its assessment practice in non-market economy (NME) cases, further discussed below, it is appropriate not to rescind the review in part in these circumstances but to complete the review with respect to these 10 companies and issue appropriate instructions to CBP based on the final results of the review.⁸

Preliminary Results of Review

The Department preliminarily determines that the following weighted-average dumping margins exist for the period November 1, 2013, through October 31, 2014:

Exporter	Weighted-Average Margin (dollars per kilogram)
Shenzhen Xinboda Industrial Co., Ltd.	2.72
Jinan Farmlady Trading Co., Ltd.	2.72
Jining Maycarrier Import & Export Co., Ltd.	2.72
Jining Shunchang Import & Export Co., Ltd.	2.72
Jinxiang Feiteng Import & Export Co., Ltd.	2.72
Jinxiang Guihua Food Co., Ltd.	2.72
Jinxiang Hejia Co., Ltd.	2.72

⁸ See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694, 65694-95 (October 24, 2011); see also “Assessment Rates” section below.

Jining Yongjia Trade Co., Ltd.	2.72
Shenzhen Yuting Foodstuff Co., Ltd.	2.72
Jining Shengtai Vegetables & Fruits Co., Ltd.	2.72
Shenzhen Bainong Co., Ltd.	2.72
Weifang Hongqiao International Logistics Co., Ltd.	2.72
Yantai Jinyan Trading Inc.	2.72
PRC-Wide Rate	4.71

Disclosure, Public Comment and Opportunity to Request a Hearing

The Department intends to disclose the calculations used in our analysis to parties in this review within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Interested parties may submit written comments (case briefs) no later than 30 days after the date of publication of these preliminary results of review and rebuttal comments (rebuttal briefs) within five days after the time limit for filing case briefs.⁹ Pursuant to 19 CFR 351.309(d)(2), rebuttal briefs must be limited to issues raised in the case briefs. Parties who submit arguments are requested to submit with the argument: (1) a statement of the issue; (2) a brief summary of the argument; and, (3) a table of authorities.¹⁰

Any interested party may request a hearing within 30 days of publication of this notice.¹¹ Hearing requests should contain the following information: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the case and rebuttal briefs.¹² If a party requests a hearing, the Department will inform parties of the scheduled date for the hearing which will be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230, at a time and location to be determined. Parties should confirm by

⁹ See 19 CFR 351.309(c)(1)(ii) and (d)(1).

¹⁰ See 19 CFR 351.309(c)(2), (d)(2).

¹¹ See 19 CFR 351.310(c).

¹² *Id.*

telephone the date, time, and location of the hearing.

The Department intends to issue the final results of this review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.¹³ For the companies for which this review is rescinded, antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19CFR 351.212(c)(1)(i).¹⁴ The Department will direct CBP to assess rates based on the per-unit (*i.e.*, per kilogram) amount on each entry of the subject merchandise during the POR. The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of review.

The Department announced a refinement to its assessment practice in NME cases. Pursuant to this refinement in practice, for merchandise that was not reported in the U.S. sales databases submitted by an exporter individually examined during this review, but that entered under the case number of that exporter (*i.e.*, at the individually-examined exporter's cash deposit rate), the Department will instruct CBP to liquidate such entries at the NME-wide rate. In addition, if the Department determines that an exporter under review had no shipments of the

¹³ See 19 CFR 351.212(b).

¹⁴ If our determination in the final results is to rescind this administrative review with respect to Kaihua, then we will not issue liquidation instructions for Kaihua unless the preliminary injunction entered on October 22, 2015, in Court of International Trade case number 15-00289 has lifted.

subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.*, at that exporter's rate) will be liquidated at the PRC-wide rate.¹⁵

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this review for shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by sections 751(a)(2)(C) of the Act: (1) for the companies listed above, the cash deposit rate will be the rate established in these final results of review (except, if the rate is zero or *de minimis*, then zero cash deposit will be required for that company); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 4.71 U.S. dollars per kilogram; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter. These requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

¹⁵ For a full discussion of this practice, see *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).

We are issuing and publishing these preliminary results in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.213(h) and 351.221(b)(4).

Dated: November 30, 2015.

Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

Appendix I

Companies For Which Reviews Have Been Rescinded

1. American Pioneer Shipping
2. Anhui Dongqian Foods Ltd.
3. Anqiu Haoshun Trade Co., Ltd.
4. APM Global Logistics (Shanghai) Co., Ltd.
5. APS Qingdao
6. Chiping Shengkang Foodstuff Co., Ltd.
7. CMEC Engineering Machinery Import & Export Co., Ltd.
8. Dongying Shunyifa Chemical Co., Ltd.
9. Dynalink Systems Logistics (Qingdao) Inc.
10. Eimskip Logistics Inc.
11. Feicheng Acid Chemicals Co., Ltd.
12. Frog World Co., Ltd.
13. Golden Bridge International, Inc.
14. Hangzhou Guanyu Foods Co., Ltd.
15. Hongqiao International Logistics Co.
16. Intecs Logistics Service Co., Ltd.
17. IT Logistics Qingdao Branch
18. Jinan Solar Summit International Co., Ltd.
19. Jining De-Rain Trading Co., Ltd.
20. Jining Highton Trading Co., Ltd.
21. Jining Jiulong International Trading Co., Ltd.
22. Jining Tiankuang Trade Co., Ltd.
23. Jinxiang County Huaguang Food Import & Export Co., Ltd.
24. Jinxiang Fengsheng Import & Export Co., Ltd.
25. Jinxiang Jinma Fruits Vegetables Products Co., Ltd.
26. Jinxiang Shenglong Trade Co., Ltd.
27. Jinxiang Tianheng Trade Co., Ltd.
28. Kingwin Industrial Co., Ltd.
29. Laiwu Fukai Foodstuff Co., Ltd.
30. Laizhou Xubin Fruits and Vegetables
31. Linshu Dading Private Agricultural Products Co., Ltd.
32. Linyi City Hedong District Jiuli Foodstuff Co.
33. Linyi City Kangfa Foodstuff Drinkable Co., Ltd.
34. Linyi Katayama Foodstuffs Co., Ltd.
35. Linyi Tianqin Foodstuff Co., Ltd.
36. Ningjin Ruifeng Foodstuff Co., Ltd.
37. Qingdao Apex Shipping Co., Ltd.
38. Qingdao BNP Co., Ltd.
39. Qingdao Cherry Leather Garment Co., Ltd.
40. Qingdao Chongzhi International Transportation Co., Ltd.
41. Qingdao Saturn International Trade Co., Ltd.
42. Qingdao Sino-World International Trading Co., Ltd.

43. Qingdao Winner Foods Co., Ltd.
44. Qingdao Yuankang International
45. Qufu Dongbao Import & Export Trade Co., Ltd.
46. Rizhao Huasai Foodstuff Co., Ltd.
47. Samyoung America (Shanghai) Inc.
48. Shandong Chengshun Farm Produce Trading Co., Ltd.
49. Shandong China Bridge Imports
50. Shandong Dongsheng Eastsun Foods Co., Ltd.
51. Shandong Garlic Company
52. Shandong Sanxing Food Co., Ltd.
53. Shandong Wonderland Organic Food Co., Ltd.
54. Shandong Xingda Foodstuffs Group Co., Ltd.
55. Shandong Yipin Agro (Group) Co., Ltd.
56. Shanghai Ever Rich Trade Company
57. Shanghai Goldenbridge International Co., Ltd.
58. Shanghai Great Harvest International Co., Ltd.
59. Shanghai Medicines & Health Products Import/Export Co., Ltd.
60. Shanghai Yijia International Transportation Co., Ltd.
61. Shenzhen Fanhui Import & Export Co., Ltd.
62. Shenzhen Greening Trading Co., Ltd.
63. T&S International, LLC.
64. Taian Eastsun Foods Co., Ltd.
65. Taian Fook Huat Tong Kee Pte. Ltd.
66. Taian Solar Summit Food Co., Ltd.
67. Taiyan Ziyang Food Co., Ltd.
68. Tianjin Spiceshi Co., Ltd.
69. U.S. United Logistics (Ningbo) Inc.
70. V.T. Impex (Shandong) Limited
71. Weifang Jinbao Agricultural Equipment Co., Ltd.
72. Weihai Textile Group Import & Export Co., Ltd.
73. WSSF Corporation (Weifang)
74. Xiamen Huamin Import Export Company
75. Xiamen Keep Top Imp. and Exp. Co., Ltd.
76. Xinjiang Top Agricultural Products Co., Ltd.
77. Yishui Hengshun Food Co., Ltd.
78. You Shi Li International Trading Co., Ltd.
79. Zhangzhou Xiangcheng Rainbow Greenland Food Co., Ltd.
80. Zhengzhou Harmoni Spice Co., Ltd.
81. Zhengzhou Xiwannian Food Co., Ltd.

Appendix II

Separate Rate Companies

1. Jinan Farmlady Trading Co., Ltd.
2. Jining Maycarrier Import & Export Co., Ltd.
3. Jining Shengtai Vegetables & Fruits Co., Ltd.
4. Jining Shunchang Import & Export Co., Ltd.
5. Jining Yongjia Trade Co., Ltd.
6. Jinxiang Feiteng Import & Export Co., Ltd.
7. Jinxiang Guihua Food Co., Ltd.
8. Jinxiang Hejia Co., Ltd.
9. Shenzhen Bainong Co., Ltd.
10. Shenzhen Yuting Foodstuff Co., Ltd.
11. Weifang Hongqiao International Logistics Co., Ltd.
12. Yantai Jinyan Trading Inc.

Appendix III

Companies That Have Certified No Shipments

1. Jining Yifa Garlic Produce Co., Ltd.
2. Jinxiang Richfar Fruits & Vegetables Co., Ltd.
3. Jinxiang Yuanxin Import & Export Co., Ltd.
4. Lanling Qingshui Vegetable Foods Co., Ltd.
5. Qingdao Lianghe International Trade Co., Ltd.
6. Qingdao Sea-line International Trading Co.
7. Qingdao Xiangtiangfeng Foods Co., Ltd.
8. Shandong Chenhe International Trading Co., Ltd.
9. Shandong Jinxiang Zhengyang Import & Export Co., Ltd.
10. Shijazhuang Goodman Trading Co., Ltd.

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